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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,934	01/26/2004	David Amirault	ECI06-GN003(920-C1)	9630

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EXAMINER

D ADAMO, STEPHEN D

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/764,934	<b>Applicant(s)</b> AMIRAULT ET AL.	
	<b>Examiner</b> Stephen D'Adamo	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38 and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Newly added claims 37 and 38 are misnumbered and should be renumbered 38 and 39. Further, in the preliminary amendment claims 1-36 were canceled. However, it is the examiner's assumption that claims 1-37, as originally filed, are cancelled since this seems to be the applicant's intent. Therefore, originally filed claim 37 will not be addressed. The claims filed in the preliminary amendment will be referred to as claims 38 and 39 respectively.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillies et al. (5,054,853) in view of Chou et al. (6,203,101).

Gillies Discloses an infant safety seat with a seat back 2, a seat pan 3 and a seat belt guide

24. However, Gillies does not disclose pivotal armrests. Chou discloses a pair of armrests with a horizontal pivoting axis, which extends generally transverse to the body

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of the seat back. The pair of armrests includes an aperture 22 for pivotally coupling to the body. Further, Figure 3 shows stop surfaces 24 and 25 on the armrest that are shaped to engage an associated bracket 13 and 14 to limit pivoting motion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the child safety seat of Gillies with both a pair of armrests at pivot axis 8, as taught by Chou, for providing increased comfort to the user. Furthermore, using pivoting armrests on a chair are old and well known in the art. Note, the infant safety chair of Gillies can easily be modified with pivotal armrests at pivot axis 8.

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schraeder (EP 576,847) in view of Chou et al. (6,203,101) and Gillies (5,054,853).

Schraeder discloses a safety seat, including a seat back 17 and seat pan for supporting an occupant. Schraeder, however, lacks an adjustable armrest and a seat belt guide. Chou discloses a pair of armrests with a horizontal pivoting axis, which extends generally transverse to the body of the seat back. The pair of armrests includes an aperture 22 for pivotally coupling to the body. Further, Figure 3 shows stop surfaces 24 and 25 on the armrest that are shaped to engage an associated bracket 13 and 14 to limit pivoting motion. The safety seat of Schraeder can easily be modified with pivotal armrests at pivot axis 23. Also, Schraeder's chair already includes a bracket 16 similar to Chou's associated limit bracket 13 and 14. Further, Gillies teaches of a seat belt guide 24. The seat belt guide is coupled to the headrest and upright frame. Schraeder also includes a similar headrest 25 and upright frame 29 and 28. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the safety

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seat of Schraeder with pivotal arm rests as taught by Chou, as well as, a safety belt guide as taught by Gillies, for providing increased comfort to the user. Furthermore, using pivoting armrests and a safety belt guide on a chair are old and well known in the art.

***Response to Amendment***

3. The Declaration filed on April 11, 2005 under 37 CFR 1.131 is sufficient to overcome the Kain (6,698,838) reference.

***Response to Arguments***

4. Applicant's arguments filed April 11, 2005, regarding claim rejections - 35 USC § 103 have been fully considered but they are not persuasive.

In response to applicant's argument that Chou et al. is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. In this case, the prior art of reference is reasonably pertinent to the particular problem with which the applicant was concerned. Specifically, Chou et al. discloses a seat with a pivotal armrest device. The prior art of reference is pertinent to pivoting armrests attached to seats.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In this case, Chou teaches that the armrest can easily be swung to a horizontal condition for the arm of a user to rest thereon or to a vertical

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condition if the armrest is not used. The motivation to include an armrest on a child seat is for providing a horizontal support for the arm of a user to rest thereon and for providing a vertical location for the armrest when the armrest is not in use.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 7:00-4:30, 2nd Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1018.

SD

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June 20, 2005

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600